THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P.No. 32685 of 1997

Dated: 01.03.2007

Between:

S. Sankara Rao and others.

..Petitioners.

And

The Special Officer, Urban Land Ceilings, Guntur and others.

..Respondents.

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P.No. 32685 of 1997

ORDER:

The petitioners filed the present writ petition with the following prayer:

"to call for the records connected with CLR & ULC ref. GNT/ 135/97 dated 23.08.1997 and CLR & ULC Proc. No.GNT/147/97 dated 18.09.1997 and quash the same".

The brief facts of the case are that the petitioners' vendor by name Mejati Venkateswarlu purchased the lands in question by virtue of a registered sale deed dated 25.07.1980. The said Venkateswarlu filed a declaration under Section 6(1) of the Urban Land Ceiling & Regulation Act, 1976 (for short 'the Act') on 28.11.1981. Thereafter, Venkateswarlu sold the lands in favour of the petitioners by virtue of sale deed dated 22.09.1982. Though the declaration was filed under Section 6(1) of the Act, the petitioners' vendor i.e., Venkateswarlu did not contest the matter, which is pending before the 1st respondent, and as the petitioners do not know about those proceedings, they also did not contest the matter. However, the 1st respondent-Competent Authority & Special Officer, Urban Land Ceilings, Guntur, issued notice dated

07.06.1993 to the wife of said Venkateswarlu stating that she is in possession of excess land of Ac:16,712.76 sq. meters, and therefore, directed to surrender the said excess holding. As against the said order, the petitioners filed W.P.No.33843 of 1996 and this Court disposed of the same along with batch on 20.12.1996 giving liberty to the petitioners to file an appeal, as provided under Section 33 of the Act. Accordingly, the petitioners preferred an appeal along with interlocutory application seeking suspension of the said notice. However, as no orders were passed therein, again they approached this Court and filed another W.P.No.20591 of 1997. In the meanwhile, an order was passed on 23.8.1997 rejecting the appeal filed by the petitioners stating that it is time barred. As the petitioners have no knowledge about the said rejection orders passed in the appeal, as already stated, they could not represent the same and thus, this Court was pleased to dispose of W.P.No.20591 of 1997 on 30.8.1997 directing the appellate authority to pass appropriate orders in the interlocutory application filed along with the appeal. Thereafter, the appellate authority passed an order dated 18.09.1997 stating that as the authority had already rejected the appeal on 23.8.1997, no orders need be passed in the said interlocutory application filed along with the appeal. Questioning the orders dated 23.08.1997 & 18.09.1997, the petitioners filed the present writ petition.

The respondents filed a detailed counter affidavit stating that possession of the lands in question was taken on 26.12.1996 and the said alienation by the declarant i.e., Venkateswarlu in favour of the petitioners, is contrary to Section 26 (1) of the Act.

Heard.

At the time of dismissal of W.P.No.33843 of 1996 and batch on 20.12.1996, this Court simply observed that the petitioners are at liberty to prefer an appeal under Section 33 of the Act. It does not mean that the petitioners can file an appeal even though there was a delay. When there was a delay, the petitioners ought to have filed a petition to condone the delay. But, it appears that the said appeal was filed without filing any petition to condone the delay. Hence, the appellate authority rejected the appeal as time barred, by its order dated 23.08.1997. As the petitioners have no knowledge about the said order, they approached this Court and filed the second writ petition in W.P.No.20591 of 1997, in which, this Court by order dated 30.08.1997, directed the appellate authority to pass appropriate orders in the interlocutory application filed along with the appeal. Having regard to the fact that the appeal was rejected as time barred, and the appellate authority passed an order dated 18.09.1997 stating that no orders need be passed in the interlocutory application in the light of the rejection of the main appeal, this Court is of the view that the impugned orders are perfectly justified and no interference is called for.

Accordingly, the Writ Petition is dismissed. No costs.

GOPALAKRISHNA TAMADA, J

Dated:01.03.2007
sj